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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,741	01/30/2004	Frederick A. Taouil	24011.00	5725
37833	7590	10/11/2006	EXAMINER	
LITMAN LAW OFFICES, LTD PO BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,741

Applicant(s)

TAOUIL, FREDERICK A.

Examiner

Chi Q. Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the applicant's patent application filed on /30/2004.

Claim Objections

Claim 1 is objected to because of the following informalities: in lines 8-11 a phrase "and a first and second side edge" should read – first and second side edges--. Appropriate correction is required. Claims 2-5 are also objected since depending upon the objected claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,253,456 to Todd.

Claims 1, and 6-7:

Todd discloses in Figures 3-6 a contoured gutter end cap 17 comprising a front wall 40 having a top wall edge, a bottom edge, and a first and second sides; said front wall being contoured to correspond to the contours of an attached gutter; an end wall (wherein 31 points to in Fig. 6) having a top edge, a bottom edge, a distal edge and a proximal edge, said end wall being contoured to correspond to the contours of an attached gutter; a back wall (wherein 38c points to in Fig. 5) having a top edge, a bottom edge, and a first and second side edges, said back wall being substantially

Art Unit: 3635

vertical and substantially flat, and a bottom 37 having a front edge, a back edge and a first and second side edges, said bottom being substantially horizontal and substantially flat; wherein said first side edge of said front wall adjoins said distal edge of said end wall and said bottom edge of said front wall adjoins said front edge of said bottom; wherein said proximal edge of said end wall adjoins said first side edge of said back wall and said bottom edge of said end wall adjoins said first side edge of said bottom; and wherein said back edge of said bottom adjoins said bottom edge of said back wall.

Claim 2:

Further comprising a top wall extending substantially horizontally from said top edge of said end wall (see Fig. 5).

Claim 5:

Further having apertures 36 dimensioned and configured for setscrews.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Pat. No. 5,253,456 to Todd.

Claims 3-4:

Todd discloses the basic structures for the contoured gutter end cap as stated above but does not disclose that the article is made of metal or plastic. However, this

Art Unit: 3635

feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made. Further, applicant has not disclosed the criticality of this feature.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached at (571) 272-6848.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

9/29/2006

Can


NAOKO SLACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600